

APPROVED

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION

Tuesday, May 2, 2000 Rockville, Md.

The County Council for Montgomery County, Maryland convened in Legislative Session in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 10:26 A.M. on Tuesday, May 2, 2000.

PRESENT

Michael L. Subin, President	Blair G. Ewing, Vice President
Phil Andrews	Howard A. Denis
Derick Berlage	Isiah Leggett
Nancy H. Dacek	Marilyn J. Praisner
Steven A. Silverman	

The President in the Chair.

INTRODUCTION OF BILLS

SUBJECT: Emergency Bill 14-00. Tenant Displacement - Extension

ACTION: Introduced Draft 2 sponsored by the Council President at the request of the County Executive.

CALL OF BILLS FOR FINAL READING

SUBJECT: Bill 31-99. Special Taxing Districts – Enforcement of Regulations

Councilmember Praisner, Chair of the Management and Fiscal Policy (MFP) Committee, presented the Committee report in accordance with the memorandum from Senior Legislative Attorney Faden, dated May 2, 2000. Ms. Praisner explained that the bill before the Council incorporates amendments recommended by the MFP Committee that preserve the central thrust of the bill and narrow its scope.

Mayor Muller, Village of Friendship Heights, expressed the Village's willingness to undertake a review and rewrite in plain language of the Village's regulations as recommended by Council Staff, subject to the retention of the intent of the regulations. Mr. Muller requested that the Council's attorneys work with the Village's attorneys in rewriting the regulations.

Councilmember Praisner stated that the Council's legal staff has been implementing over time the Council's initiative of the plain language rewrite of the County Code. She said that as amendments to the County Code are enacted, Staff has been using this opportunity to write the amendments in plain language and at the same time, revise in plain language that portion of the County Code in which the amendments are being incorporated. She said the plain language rewrite does not change the substance of the law, but rather makes the law easier to understand. Ms. Praisner said that, as Mr. Muller noted, the revised regulations would have to come to the Council for its approval, but that it is unlikely any issues will be raised concerning the regulations.

Mr. Faden expressed his willingness to work with the Village's attorneys in the rewrite of the regulations.

Ms. Tavani, President, Friendship Heights Village Civic Association, questioned the need for the six-month deadline suggested by Council Staff for rewriting the regulations, noting the likelihood that the process could be delayed if the County Attorney's advice is sought.

Councilmember Praisner stated that she believes a deadline is needed to ensure that the work will proceed in a timely manner, and that the six-month deadline proposed by Mr. Faden is appropriate. Ms. Praisner assured Ms. Tavani that Mr. Faden will work with the County Attorney and the Village's attorneys in the rewrite of the regulations in a timely manner.

ACTION: Adopted the following amendments as reflected in the bill:

AN ACT to:

- (1) allow the County to enforce certain regulations adopted by special taxing districts;
- (2) allow the County to delegate certain enforcement functions to agents of certain special taxing districts ~~[[to enforce certain County laws]]~~; and
- (3) generally amend County laws relating to enforcement of special taxing district regulations.

By amending

Montgomery County Code
Chapter 1, General Provisions
Section 1-18

Chapter 2, Administration
Section 2-96

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

*Heading or defined term.**Added to existing law by original bill.**Deleted from existing law by original bill.**Added by amendment.**Deleted from existing law or the bill by amendment.**Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 1-18 and 2-96 are amended as follows:

1-18. Enforcement procedures.

(a) *Definitions.* In Sections 1-18, 1-19 and 1-20:

- (1) *Citation* means a document charging a person with a violation of County law. A civil citation seeks the imposition of a civil penalty. A criminal citation seeks the imposition of a criminal sanction.
- (2) *County law* means any provision of:
 - (A) a law enacted by the County Council;
 - (B) a public local law adopted by the General Assembly which applies in Montgomery County;
 - (C) an ordinance or subdivision regulation enacted under the Regional District Act;
 - (D) a health regulation adopted by the County Council sitting as the County Board of Health; [or] or
 - (E) a regulation adopted under authority of the County Code[.] [; or
 - [[(F) a regulation of a special taxing district that the Council has approved]].

- (3) *Enforcement officer* means a police officer or other agent of Montgomery County, the State of Maryland, or any agency created under State or County law, whose job includes the issuance of a citation. Enforcement officer also means a police officer or other agent of any municipality [[or special taxing district]] that the County Executive has authorized under Section 2-96(b) to enforce any specified County law in that municipality [[or special taxing district]], whose job includes the issuance of a citation. Enforcement officer also means an agent of a special taxing district who is authorized to act as an agent of the County under an agreement adopted under Section 2-96(a).

* * *

2-96. Administration and enforcement of legislation in municipal corporations and special taxing districts.

- (a) *[Administration or] County enforcement of municipal [legislation] laws and special taxing district regulations.*
- (1) Any municipal corporation, by ordinance, or any special taxing district, by regulation, may request and authorize the County to administer or enforce any municipal [[legislation]] law or special taxing district regulation. The County may administer or enforce the municipal [[legislation]] law or special taxing district regulation on the terms and conditions as may mutually be agreed.
- (2) The County Executive [is authorized to enter into agreements] may agree with [the] a municipal corporation[s] [and] or special taxing district[s] to enforce and administer [the] any municipal [[legislation]] law or special

taxing district regulation. That agreement may authorize an agent of the municipal corporation or special taxing district to issue a citation, as an agent of the County, for a violation of any municipal law or special taxing district regulation.

- (3) [[Without further action,]] After an agreement under this subsection takes effect, the County may treat a violation of any regulation of a special taxing district that the Council has approved (including a regulation adopted under Section 49-4) as a violation of the [[Montgomery]] County Code under Section 1-18. [[Unless otherwise]] In addition to any other remedy or penalty specified in the regulation, each violation of any regulation of a special taxing district [[is]] may be treated as a Class B civil violation unless another class of violation is cited in the regulation.

- (b) *Enforcement [and administration] of county [legislations] laws by municipal corporations [[and special taxing districts]].*

- (1) If requested by [the] any municipal corporation [[or special taxing district]], the County Executive may delegate the administration or enforcement [[powers]] of any county [[legislation]] law that [is applicable within] applies in a municipal corporation [[or special taxing district]] to the chief administrative officer of the municipal corporation [[or special taxing district]].

- (2) The County Executive [is authorized to enter into agreements] may agree with the municipal corporation [[or special taxing district]] to regulate the delegation of the County's administration and enforcement powers to the municipal corporation's [[or special taxing district's]] chief administrative officer.

ACTION: Enacted Bill 31-99, as amended.

The motion was made by the MFP Committee, and the bill was enacted by a roll call vote:

YEAS: Andrews, Dacek, Berlage, Leggett, Silverman, Praisner, Denis, Ewing, Subin.

SUBJECT: Bill 10-00. Collective Bargaining – Police - Sergeants

Councilmember Andrews, Lead Councilmember for Personnel issues on the MFP Committee, welcomed to the meeting newly-elected Councilmember Denis, Chief of Police Moose, and other police officers in attendance. Mr. Andrews expressed the view that the County has an excellent Police Department, and commented on the additional growth in the Department that can be achieved through Chief Moose's leadership.

Councilmember Andrews presented the report of the MFP Committee in accordance with the information contained in the memorandum from Mr. Faden, dated May 2, 2000. Mr. Andrews said that he supported enactment of the bill with amendments, former Councilmember Krahne opposed enactment, and Councilmember Praisner declined to state a position on the bill because of her belief that amendments being proposed by two Councilmembers should have been made available to the Committee for its review rather than being introduced when the bill is before the Council for action. Mr. Andrews noted that should the Council enact the bill, certain amendments described in Mr. Faden's memorandum were supported by all of the Committee members.

Councilmember Praisner expressed the view that it is always appropriate for Councilmembers to introduce amendments to legislation, but she believes it does not serve the Council well for Councilmembers who know that they will introduce amendments to legislation to not make the amendments available when the Committee reviews the legislation. She pointed out that this provides the Committee the opportunity to make certain that the language in the amendment reflects its intent and to determine whether more work is needed on the legislation. Ms. Praisner suggested in the future, when possible, Councilmembers make any written amendments available to Council Staff for further refinement and for inclusion in the Committee's meeting packet. Councilmember Praisner said that she believes by doing this, Councilmembers will help the process and the Committees to arrive at well-reasoned decisions.

Councilmember Andrews stated that the MFP Committee considered the amendments recommended by the County Executive and supported by Chief of Police Moose, and the effects bargaining issue (the ability to bargain the effect of the employer's exercise of the rights reserved to the employer). He said that the Committee recommended that effects bargaining not be extended beyond where it is now. Mr. Andrews said that Councilmember Berlage's proposed amendment addresses another issue raised by Chief Moose and the Alliance of Police Supervisors regarding the extension of collective bargaining to Police lieutenants and captains.

Councilmember Silverman stated that he agrees amendments to legislation should be available in time for the Committee's worksession on the legislation; however, his amendment was not available at that time. Councilmember Silverman moved, duly seconded, the following amendment:

Beginning on page 2, line 17, delete all provisions. Add the following at the end of the bill:

Section 2. If, during the first 90 days after this Act becomes law, the permanent umpire appointed under Section 33-77 finds that a majority of all sergeants then employed by the Police Department have authorized the certified representative of the police bargaining unit to represent them, then this Act takes effect on October 1, 2000. If the permanent umpire does not so find during the specified time period, then this Act does not take effect.

In explaining his amendment, Councilmember Silverman stated that the primary focus of the amendment is to create one bargaining unit. He said that the Council received testimony and correspondence from a variety of individuals indicating some rational basis for one bargaining unit if collective bargaining is established for sergeants. In his opinion one bargaining unit would avoid potential inconsistencies in arbitration decisions; create a more effective and efficient uniform mechanism for both the employer and employee, and would be based on the experience of other jurisdictions.

Councilmember Silverman responded to questions raised by Councilmember Dacek concerning his amendment, stating that his amendment would allow sergeants to join the existing police bargaining unit if they vote to do so, and that while he agrees with the Committee's position on effects bargaining, police sergeants could bargain for this right under his proposed amendment.

Councilmember Dacek stated that she has been aware of the police sergeants' concerns about being excluded from collective bargaining. Because she has always considered sergeants to be part of the supervisory structure of the Police Department, she has not supported bringing police sergeants within the scope of collective bargaining. However, police sergeants have indicated that they are not treated as part of the supervisory structure, and the bill is an attempt to address some of these issues. Ms. Dacek stated that the impression she has received from Chief Moose is that he would like to strengthen the supervisory structure for sergeants. With respect to whether sergeants should be included in the current bargaining unit or a separate bargaining unit as specified in the bill, Ms. Dacek expressed the view that if sergeants are included in collective bargaining, she would prefer that they be part of a separate bargaining unit.

Chief Moose urged the Council to support the County Executive's proposed amendment to the bill that would provide collective bargaining rights to police sergeants, lieutenants, and captains in a separate collective bargaining unit. He emphasized the need for sergeants to have a close working relationship with lieutenants and captains.

Councilmember Berlage stated that he introduced the bill because he believes sergeants should have collective bargaining rights. He pointed out that sergeants are supervisors, but there is a difference in the responsibilities of a line supervisor and management. He said that there are many examples, both in the public and private sectors, of line supervisors that have been provided collective bargaining rights. Mr. Berlage stated that sergeants do not control the work place in the same way that managers do, and they have not been able to exercise their influence over wages and conditions. Mr. Berlage expressed the view that the County cannot afford to have a morale problem in public safety, and that it is necessary to make certain that every part of the organization has the right amount of control over their mission that is appropriate within the organization. With respect to including lieutenants and captains within the scope of the bill, Councilmember Berlage expressed his support. He said that when he introduced the bill he had only sergeants in mind, but upon reflection believes lieutenants and captains should be included along with sergeants in a separate bargaining unit. Mr. Berlage indicated his support for Councilmember Silverman's proposed amendment and stated that if it is approved, he will propose his amendment with revisions that would include the exclusion of certain captain and lieutenant positions.

Discussion was held concerning issues involving the exclusion of certain positions from collective bargaining rights, whether this exclusion would apply to sergeant positions as well as captain and lieutenant positions, possible conflicts between the bill and the proposed amendments concerning effects bargaining, and possible inconsistencies between the bill and revised personnel regulations that the Council will review in the near future. There was no vote taken on Councilmember Silverman's proposed amendment.

President Subin ruled that Bill 10-00 be returned to the Committee to address issues raised at this meeting. He expressed the hope that the Committee would address the issues soon, but advised interested parties that it is likely to be early June before the Committee can schedule another worksession on the bill due to the Council's review of the operating budget.

ACTION: Returned Bill 10-00 to the MFP Committee to address issues raised at this meeting.

The Council agreed with the President's ruling by consensus.

The Council recessed its legislative session at 11:10 A.M. and reconvened at 1:57 P.M.

SUBJECT: Emergency Bill 13-00. Lifeguards – CPR Training

The Council had before it the memorandum and attachments from Mr. Faden, dated April 28, 2000.

Councilmember Praisner moved, duly seconded, the following amendment to the bill: On line 8, delete the word [[or]] between the words "American Red Cross" and "the American Heart Association," and add after the words "American Heart Association," the words the National Safety Council: on line 9, before the word "Department," add the word State, and after the word "Department," add the words Health and Mental Hygiene.

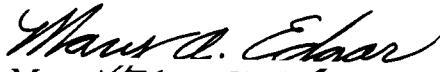
ACTION: Enacted the bill, as amended.

The motion was made by Councilmember Praisner, and the bill was enacted by a roll call vote:

YEAS: Andrews, Dacek, Silverman, Praisner, Denis, Ewing, Subin
ABSENT: Leggett, Berlage (temporarily).

The Council adjourned its legislative session at 1:57 P.M.

This is an accurate account of the meeting:

A handwritten signature in cursive script, appearing to read "Mary A. Edgar".

Mary A. Edgar, CMC
Clerk of the Council

Minutes written by: Mary A. Edgar